

Application Serial No.: 09/764,270  
Reply to Office Action dated June 10, 2005

REMARKS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-116 are presently active in this case, Claims 1, 6, 14, 30, 40, 45, 54, 59, 64, 72, 88, 98, 103, and 112 having been amended by way of the present Amendment.

In the outstanding Official Action, Claims 1-13, 54, 64, 98, and 112 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. Claims 1 and 59 were amended to change “recordable medium” to “removable medium,” and Claims 6, 40, 54, 64, 98, and 112 were amended to change “predefined criteria” to “predetermined criteria.” Thus, these terms are provided with proper antecedent basis. Accordingly, the Applicant respectfully requests the withdrawal of the indefiniteness rejections.

Claims 1-3, 7-16, 19, 20, 23-32, 35, 39, 41-46, 49, 53, 55-61, 65-74, 77, 78, 81-90, 93, 97, 99-104, 107, 111, and 113-116 were rejected under 35 U.S.C. 102(e) as being anticipated by Hunter et al. (U.S. App. Patent Pub. No. 2002/0056118). Claims 4-6, 17, 18, 21, 22, 33, 34, 37, 38, 40, 47, 48, 51, 52, 54, 62-64, 75, 76, 79, 80, 91, 92, 95, 96, 98, 105, 106, 109, 110, and 112 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. in view of Srinivasan (U.S. Patent No. 6,460,076). Claims 36, 50, 94, and 108 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. in view of Srinivasan and further in view of Allen (U.S. Patent No. 5,794,217).

In the Office Action, the Hunter et al. reference is indicated as anticipating each of independent Claims 1, 14, 30, 45, 59, 72, 88, and 103. However, the Applicant notes that a

claim is anticipated only if each and every element as set forth in the claims is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As will be demonstrated below, the Hunter et al. reference clearly does not meet each and every limitation of the independent Claims 1, 14, 30, 45, 59, 72, 88, and 103.

Claim 1 of the present application recites a method comprising, among other features, determining whether a device of the computer having structure to write to the removable medium meets predetermined criteria including a capability to deal with an interrupted or non-steady data flow and is therefore an appropriate device for writing to the removable medium. Claim 14 recites a method comprising, among other features, writing information to a removable medium using a device of the computer having structure to write to the removable medium, only if it is determined that a device of the computer having structure to write to the removable medium has structure which makes the device an appropriate device for writing to the removable medium by having a capability to deal with an interrupted or non-steady data flow. Claim 30 recites a method comprising, among other features, writing second importance information to a storage medium ... when a device configured to write to the storage medium does satisfy predetermined criteria including a capability to deal with an interrupted or non-steady data flow. Claim 45 recites a method comprising, among other features, transmitting second importance information to a remote computer ... when a device configured to write to a storage medium does satisfy predetermined criteria including a capability to deal with an interrupted or non-steady data flow. Claim 59 recites a system comprising, among other features, means for determining whether a device of the computer having structure to write to the removable medium meets predetermined criteria including a

capability to deal with an interrupted or non-steady data flow and is therefore an appropriate device for writing to the removable medium. Claim 72 recites a system comprising, among other features, means for writing information to a removable medium using a device of the computer having structure to write to the removable medium, only if it is determined that a device of the computer having structure to write to the removable medium has structure which makes the device an appropriate device for writing to the removable medium by having a capability to deal with an interrupted or non-steady data flow. Claim 88 recites a system comprising, among other features, means for writing second importance information to a storage medium ... when a device configured to write to the storage medium does satisfy predetermined criteria including a capability to deal with an interrupted or non-steady data flow. Claim 103 recites a system comprising, among other features, means for transmitting second importance information to a remote computer ... when a device configured to write to a storage medium does satisfy predetermined criteria including a capability to deal with an interrupted or non-steady data flow. (See page 9, lines 16-18, page 10, lines 6-8, and page 8, lines 23-29.) The Applicant respectfully submits that the Hunter et al. reference does not disclose the features of Claims 1, 14, 30, 45, 59, 72, 88, and 103 set forth above.

The Hunter et al. reference describes a video and music distribution system that blanket transmits video/audio content such as movies to each customer's recording, storage and playback system. The Official Action cites paragraph [0074] for the teaching of the step of determining whether a device of the computer having structure to write to the removable medium meets predetermined criteria. Paragraph [0074] describes that the user may determine the status of multiple disc positions in order to determine which disc positions contain blank discs and which disc positions have no discs. The Hunter et al. reference then

states that “the user may elect to playback a movie that is already on the platter, remove disc(s) for storage, etc.” This discussion does not appear to teach a criteria which is used to determine whether information is transferred to the computer. In fact, in the invention of the Hunter et al. reference, if the platter does not contain any discs that can be used for storage, then the device would likely store the audio/video in the hard drive (see paragraph [0128]) for later storage on a disc if the user so desires. However, nothing in the Hunter et al. reference suggests that the lack of a usable disc on the platter would prevent downloading of information to the system. The Hunter et al. reference does not disclose using predetermined criteria to determine whether and if information is transmitted to the computer. The Hunter et al. reference clearly does not disclose or even suggest utilizing such predetermined criteria that includes a capability to deal with an interrupted or non-steady data flow, in order to determine whether or not to transmit information to the computer.

Thus, the Applicant respectfully submits that the Hunter et al. reference does not disclose *predetermined criteria including a capability to deal with an interrupted or non-steady data flow*, as recited in Claims 1, 30, 45, 59, 88, and 103, or writing information to a removable medium only if it is determined that a device has structure which makes the device an appropriate device for writing to the removable medium *by having a capability to deal with an interrupted or non-steady data flow*, as recited in Claims 14 and 72. Accordingly, the Applicant submits that the Hunter et al. reference does not anticipate Claims 1, 14, 30, 45, 59, 72, 88, and 103, and thus the Applicant respectfully requests the withdrawal of the anticipation rejection of Claims 1, 14, 30, 45, 59, 72, 88, and 103.

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The dependent claims are considered allowable for the reasons advanced for independent claims from which they respectively depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of their respective independent claims.

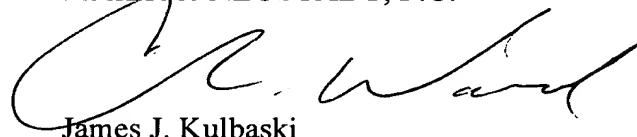
Additionally, it is submitted that the Srinivasan reference does not supplement the deficiencies noted above with respect to the Hunter et al. reference. The Srinivasan reference does not disclose or even suggest the predetermined criteria recited in the independent claims of the present application. More specifically, the Srinivasan reference does not disclose *predetermined criteria including a capability to deal with an interrupted or non-steady data flow*, as recited in Claims 1, 30, 45, 59, 88, and 103, or writing information to a removable medium only if it is determined that a device has structure which makes the device an appropriate device for writing to the removable medium *by having a capability to deal with an interrupted or non-steady data flow*, as recited in Claims 14 and 72.

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Consequently, in view of the above discussion, it is respectfully submitted that the present application is in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully Submitted,

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